

106TH CONGRESS  
2D SESSION

# H. R. 4074

To amend the Internal Revenue Code of 1986 to treat State Developmental Disabilities Endowment Programs as tax exempt organizations.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2000

Ms. DUNN introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to treat State Developmental Disabilities Endowment Programs as tax exempt organizations.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Developmental Dis-  
5       ability Endowment Act”.

6       **SEC. 2. STATE DEVELOPMENTAL DISABILITIES ENDOW-**  
7       **MENT PROGRAMS**

8       (a) IN GENERAL.—Subchapter F of chapter 1 of the  
9       Internal Revenue Code of 1986 (relating to exempt organi-

1 zations) is amended by adding at the end the following  
 2 new part:

3 **“PART IX—STATE DEVELOPMENTAL**  
 4 **DISABILITIES ENDOWMENT PROGRAMS**

“Sec. 531. State developmental disabilities endowment programs.

5 **“SEC. 531. STATE DEVELOPMENTAL DISABILITIES ENDOW-**  
 6 **MENT PROGRAMS.**

7 “(a) GENERAL RULE.—A qualified State develop-  
 8 mental disabilities endowment program shall be exempt  
 9 from taxation under this subtitle. Notwithstanding the  
 10 preceding sentence, such program shall be subject to the  
 11 taxes imposed by section 511 (relating to imposition of  
 12 tax on unrelated business income of charitable organiza-  
 13 tions).

14 “(b) QUALIFIED STATE DEVELOPMENTAL DISABIL-  
 15 ITIES ENDOWMENT PROGRAM.—For purposes of this  
 16 section—

17 “(1) IN GENERAL.—The term ‘qualified State  
 18 developmental disabilities endowment program’  
 19 means a program established and maintained by a  
 20 State or agency or instrumentality thereof—

21 “(A) under which a person may make con-  
 22 tributions to an account which is established for  
 23 the purpose of providing qualified services to  
 24 the designated beneficiary of the account, and

1           “(B) which meets the other requirements  
2           of this subsection.

3           “(2) CASH CONTRIBUTIONS.—A program shall  
4           not be treated as a qualified State developmental  
5           disabilities endowment program unless it provides  
6           that contributions may only be made in cash.

7           “(3) REFUNDS.—A program shall not be treat-  
8           ed as a qualified State developmental disabilities en-  
9           dowment program unless it imposes a more than de  
10          minimis penalty on any refund of earnings from the  
11          account which are not—

12               “(A) used for qualified services with re-  
13               spect to the designated beneficiary, or

14               “(B) made on account of the death or dis-  
15               ability of the designated beneficiary.

16           “(4) SEPARATE ACCOUNTING.—A program shall  
17           not be treated as a qualified State developmental  
18           disabilities endowment program unless it provides  
19           separate accounting for each designated beneficiary.

20           “(5) NO INVESTMENT DIRECTION.—A program  
21           shall not be treated as a qualified State develop-  
22           mental disabilities endowment program unless it pro-  
23           vides that any contributor to, or designated bene-  
24           ficiary under, such program may not directly or indi-

1 rectly direct the investment of any contributions to  
 2 the program (or any earnings thereon).

3 “(6) NO PLEDGING OF INTEREST AS SECUR-  
 4 RITY.—A program shall not be treated as a qualified  
 5 State developmental disabilities endowment program  
 6 if it allows any interest in the program or any por-  
 7 tion thereof to be used as security for a loan.

8 “(7) PROHIBITION ON EXCESS CONTRIBU-  
 9 TIONS.—A program shall not be treated as a quali-  
 10 fied State developmental disabilities endowment pro-  
 11 gram unless it provides adequate safeguards to pre-  
 12 vent contributions on behalf of a designated bene-  
 13 ficiary in excess of those necessary to provide for the  
 14 qualified services with respect to the beneficiary.

15 “(c) TAX TREATMENT OF DESIGNATED BENE-  
 16 FICIARIES AND CONTRIBUTORS.—

17 “(1) IN GENERAL.—Except as otherwise pro-  
 18 vided in this subsection, no amount shall be includ-  
 19 ible in gross income of—

20 “(A) a designated beneficiary under a  
 21 qualified State developmental disabilities endow-  
 22 ment program, or

23 “(B) a contributor to such program on be-  
 24 half of a designated beneficiary,

1 with respect to any distribution or earnings under  
2 such program.

3 “(2) GIFT TAX TREATMENT OF CONTRIBU-  
4 TIONS.—For purposes of chapters 12 and 13—

5 “(A) IN GENERAL.—Any contribution to a  
6 qualified developmental disabilities endowment  
7 program on behalf of any designated  
8 beneficiary—

9 “(i) shall be treated as a completed  
10 gift to such beneficiary which is not a fu-  
11 ture interest in property, and

12 “(ii) shall not be treated as a qualified  
13 transfer under section 2503(e).

14 “(B) TREATMENT OF EXCESS CONTRIBU-  
15 TIONS.—If the aggregate amount of contribu-  
16 tions described in subparagraph (A) during the  
17 calendar year by a donor exceeds the limitation  
18 for such year under section 2503(b), such ag-  
19 gregate amount shall, at the election of the  
20 donor, be taken into account for purposes of  
21 such section ratably over the 5-year period be-  
22 ginning with such calendar year.

23 “(3) DISTRIBUTIONS.—

24 “(A) IN GENERAL.—Any distribution  
25 under a qualified State developmental disabil-

ities endowment program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

“(B) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State developmental disabilities endowment program shall be treated as a distribution to the beneficiary.

“(C) CHANGE IN BENEFICIARIES.—

“(i) ROLLOVERS.—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to the credit of another designated beneficiary under a qualified State developmental disabilities endowment program.

“(ii) CHANGE IN DESIGNATED BENEFICIARIES.—Any change in the designated beneficiary of an interest in a qualified State developmental disabilities endowment program shall not be treated as a distribution for purposes of subparagraph (A).

1           “(D) OPERATING RULES.—For purposes of  
2           applying section 72—

3                   “(i) to the extent provided by the Sec-  
4                   retary, all qualified State developmental  
5                   disabilities endowment programs of which  
6                   an individual is a designated beneficiary  
7                   shall be treated as one program,

8                   “(ii) all distributions during a taxable  
9                   year shall be treated as one distribution,  
10                  and

11                  “(iii) the value of the contract, income  
12                  on the contract, and investment in the con-  
13                  tract shall be computed as of the close of  
14                  the calendar year in which the taxable year  
15                  begins.

16           “(4) ESTATE TAX TREATMENT.—

17                   “(A) IN GENERAL.—No amount shall be  
18                   includible in the gross estate of any individual  
19                   for purposes of chapter 11 by reason of an in-  
20                   terest in a qualified developmental disabilities  
21                   endowment program.

22                   “(B) AMOUNTS INCLUDIBLE IN ESTATE OF  
23                   DESIGNATED BENEFICIARY IN CERTAIN  
24                   CASES.—Subparagraph (A) shall not apply to

1 amounts distributed on account of the death of  
2 a beneficiary.

3 “(C) AMOUNTS INCLUDIBLE IN ESTATE OF  
4 DONOR MAKING EXCESS CONTRIBUTIONS.—In  
5 the case of a donor who makes the election de-  
6 scribed in paragraph (2)(B) and who dies be-  
7 fore the close of the 5-year period referred to  
8 in such paragraph, notwithstanding subpara-  
9 graph (A), the gross estate of the donor shall  
10 include the portion of such contributions prop-  
11 erly allocable to periods after the date of death  
12 of the donor.

13 “(5) OTHER GIFT TAX RULES.—For purposes  
14 of chapters 12 and 13, in no event shall a distribu-  
15 tion from a qualified developmental disabilities en-  
16 dowment program be treated as a taxable gift.

17 “(d) REPORTS.—Each officer or employee having  
18 control of the qualified developmental disabilities endow-  
19 ment program or their designee shall make such reports  
20 regarding such program to the Secretary and to des-  
21 ignated beneficiaries with respect to contributions, dis-  
22 tributions, and such other matters as the Secretary may  
23 require. The reports required by this subsection shall be  
24 filed at such time and in such manner and furnished to

1 such individuals at such time and in such manner as may  
2 be required by the Secretary.

3 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) DESIGNATED BENEFICIARY.—The term  
6 ‘designated beneficiary’ means—

7 “(A) the individual designated at the com-  
8 mencement of participation in the qualified  
9 State developmental disabilities endowment pro-  
10 gram as the beneficiary of amounts paid (or to  
11 be paid) to the program,

12 “(B) in the case of a change in bene-  
13 ficiaries described in subsection (c)(3)(C), the  
14 individual who is the new beneficiary, and

15 “(C) any individual not described in sub-  
16 paragraph (A) or (B) who is designated as a  
17 beneficiary under the qualified developmental  
18 disabilities endowment program.

19 “(2) QUALIFIED SERVICES.—The term ‘quali-  
20 fied services’ means the services designated under  
21 the qualified developmental disabilities endowment  
22 program.”.

23 (b) CLERICAL AMENDMENT.—The table of parts for  
24 subchapter F of chapter 1 of such Code is amended by

- 1 adding after the item relating to part VIII the following  
2 new item:

“Part IX. State developmental disabilities trust funds.”.

- 3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2000.

